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09-CV-05210-ORD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

NATHANIEL B. WASHINGTON,

Plaintiff,

v.

C/O PERRY, *et al.*,

Defendants.

No. C09-5210 FDB

**ORDER ADOPTING REPORT AND
RECOMMENDATION DISMISSING
ACTION FOR FAILURE TO STATE A
CLAIM**

13 The Magistrate Judge recommends this prisoner civil rights action be dismissed without
14 prejudice for failure to state. Plaintiff has not filed objections to the Report and
15 Recommendation. As detailed by the Magistrate Judge, Mr. Washington was carefully
16 instructed as to the elements of a 42 U.S.C. § 1983 action and given ample opportunity to amend
17 his complaint to state a cognizable claim. Construing his amended complaint in the light most
18 favourable to Plaintiff, and resolving all doubts in his favour, it is evident that he has failed to
19 state a claim upon which relief can be granted and further amendment would be futile.

20
21 The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen
22 L. Strombom, and the remaining record, does hereby find and ORDER:

- 23 (1) The Court adopts the Report and Recommendation;
24 (2) This action is **DISMISSED without prejudice** prior to service for failure to state
25 a claim. **This dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g); and**
26

(3) The Clerk is directed to send copies of this Order to Plaintiff and to the Hon. Karen L. Strombom.

DATED at Tacoma, Washington this 19 day of August, 2009.

FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE